

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION ST.NO.10089 OF 2004

Mohan Puram Phase I Coop.

Housing Society Ltd. & Ors. .. Petitioners

Versus

State of Maharashtra & Ors. .. Respondents

Mr.Milind Sathe i/b. Ramchandra Yadav for
petitioners

Mr.R.M.Patne, A.G.P. for respondent Nos. 1 to 6.

CORAM : A.P.SHAH AND
S.C.DHARMADHIKARI, JJ.
DATE : 22nd DECEMBER 2004.

P.C.

. Rule. Learned A.G.P. waives service for
respondent Nos. 1 to 6. By consent rule is made
returnable forthwith. Heard Advocates.

2. By this petition, the petitioners seek to challenge the order passed by the Collector, Thane on 8th November 2004 cancelling the Non Agricultural Permissions (N.A. permissions) granted to petitioners in respect of development of the lands bearing S.Nos. 77, 164/2 (part) and 38 (part) belonging to petitioners. By this order, the Collector has directed cancellation of N.A. permissions which were granted in the year 2001. After obtaining the N.A. permission, petitioners submitted plans for construction and obtained appropriate sanction for construction of the buildings from Ambarnath Municipal Council and thereafter constructed 26 buildings consisting of 516 residential and 14 commercial tenements in accordance with the planning permissions granted by the Ambarnath Municipal Council and other authorities. It appears that occupation certificate was also granted by Ambarnath Municipal Council in respect of the said buildings.

3. Mr.Sathe, learned Counsel for the petitioners took us through the documents annexed

to the petition and contended that the lands in question are not forest lands and the very basis on which the impugned order is passed is factually incorrect. Mr.Sathe submits that the impugned order of Collector has been passed without following the principles of natural justice and only on the ground of breach of principles of natural justice alone, the impugned order is liable to be quashed and set aside.

4. Learned A.G.P. Ms.Pawar, fairly conceded that no prior notice was given to the petitioners before cancellation of the N.A. permission granted in favour of petitioners. It is needless to say that it is a cardinal principle of natural justice that before any order is passed or any action is taken entailing civil consequences, the concerned person must be given an opportunity to show cause to explain the case made against him and explain the facts and circumstances. The petitioners not given any opportunity before directing cancellation of N.A. permissions which were granted in their favour in the year 2001. Under the circumstances, impugned order dated 8th November 2004 is quashed and set aside. However,

the Collector will be at liberty to issue a show cause notice to petitioners and pass appropriate orders after granting the petitioners an opportunity of personal hearing. In case the order passed by the Collector is adverse to the petitioners, the same will not be implemented for a period of four weeks from the date of its communication to petitioners.

5. Petition is disposed of accordingly. All contentions on merits are expressly kept open.
